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THE EXERCISE OF HOOPA TRIBAL SOVEREIGNTY
AN OVERVIEW OF THE FUNCTIONS OF TRIBAL GOVERNMENT

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I. INTRODUCTION

The Hoopa Valley Tribe, as a sovereign nation, maintains a special relationship with the United States. The Tribal membership has delegated the exercise of Tribal sovereign powers to the Hoopa Valley Tribal Council through the Hoopa Consitution. This handbook provides an overview of the exercise of Hoopa sovereign powers, as applied by the Hoopa Tribal Government. It is intended to inform interested parties of how our Tribal Government functions, thereby providing the greatest opportunities to effectively apply the Tribe's inherent powers. The more knowledgeable we are regarding how Tribal powers are derived, and how those powers are exercised through our Hoopa Governmental process, the more effective we will become at protecting the Tribe's long-term interests, values and inherent sovereign powers and the more prepared we will be to meet the challenges of the future.

The authority of the Hoopa Tribe is applied through its governmental structure, through which the membership, Tribal Council, and employees can collectively have input, participate and support. This handbook is based on principles and procedures that are reflective of how the Hoopa Tribal Government works. It describes the four branches of Tribal Government and how they function. It also describes effective methods for decision-making within the Tribe and how those decisions are carried out. It is intended to provide an overview of the functions of Hoopa Tribal Government, not to replace any existing procedures, policies, laws or functions that may exist.

Outside authorities will always seek to control and influence the internal affairs of the Hoopa Tribe if we let them. One of the greatest rewards to the Tribe will be that if this handbook helps to empower the Tribal Council, managers, employees, Tribal membership and interested parties to effectively and properly exercise the sovereign powers of the Hoopa Valley Tribe to foster economic and political growth and stability for the Tribe and Hoopa Valley Indian Reservation.

II. DEFINITION OF SOVEREIGNTY.

Simply put, Hoopa Tribal sovereignty was borne with the Hupa people. Because the Hupa people did not originate as citizens of another nation, sovereignty was recognized as originating internally from the Hupa Nation itself. It should be noted that the Citizenship Act, enacted by Congress in 1921, did not extinguish citizenship in the Hupa Nation, instead, bestowed upon the Hupa people citizenship in the United States, the same as other U.S. citizens.

As an aboriginal self-governing Nation, the Hoopa Tribe has continuously regulated activities within its territories and citizenship. The Federal courts have ruled that, after the treaty-making time, Tribal self-regulating powers were restricted in some

areas because of the cessions that were necessary to live in peace and friendship with the citizens of the United States. In other areas, other parts of Tribal sovereignty was limited due to special enactments of the U.S., such as Public Law 83-280, which gave some aspects of the Federal law enforcement authority to some States, including California.

Generally speaking, the Tribe has maintained much of its inherent sovereignty over its members, as well as most of the civil (non-criminal) jurisdiction over the Hoopa Reservation.

Because the sovereign power is a "possession" of the Hoopa Nation and its citizens, the Hupa people "delegated" certain powers to the Tribal Council through the Hoopa Constitution. Among other things, two important parts of the Hoopa Tribe's Constitution includes; 1) a delegation to the Tribal Council of certain powers and, 2) retention of other rights and powers by Tribal members. As an organic document, the Constitution is an lasting agreement between the Hoopa people and its Tribal Council.

The one of the primary issues of Tribal sovereignty is not whether a Tribe has sovereign powers - but rather how are those sovereign powers exercised. Ironically, all aboriginal sovereign powers of Indian Tribes across the United States are rooted in the same framework of U.S. Tribal relationships. However, the primary difference between an effective Tribal Government that we recognized nation-wide and those we don't is how they exercise their sovereign powers.

III. THE TRIBAL COUNCIL - STEWARDS OF TRIBAL SOVEREIGNTY.

The Hoopa people have entrusted the Tribal Council as the stewards of its sovereignty. The duties of the Tribal Council are tremendously complex and difficult. The Council is expected to provide oversight responsibilities for generating jobs and revenues, providing health and educational services, managing natural resources, providing judicial services, protecting Tribal rights and interests, and managing local, regional, state and federal efforts that impact the Tribe. The Hoopa Tribal Council is, quite literally, the steward of the people's sovereign powers and rights.

Tribal Governments are unique in that they function mostly based on a blend of tradition as well as "modern" approaches to exercising sovereign powers. The traditional unwritten systems have been used since time immemorial to help the Tribe meet challenges, adapt to changing environments, and progress and survive. In present times, modern-day influences have pressured Tribes into establishing formal styles of governments, such as adoptions of Tribal constitutions, written laws and written operating procedures. These organizational documents have enabled Tribes to access such things as federal and state funds and programs, provide broader governmental services, afford constitutional protections

such as due process and equal protections of law, as well as to authorize the expenditure of money.

These modern forms of Tribal governments structures are typically not traditional forms of governments. Instead, they are designed around a modified version of government - mostly the Federal Governmental structure. For grants or contracts, both Federal and State Government requires formal internal systems for personnel, accounting, audits, decision making, and the like. Tribal Council's today have assumed additional administrative and legal burdens while carrying out their present-day activities and operations.

In Article IX of the Tribal Constitution, the people have delegated powers to the Tribal Council to:

- o Administer Tribal property
- o Borrow money
- o Collect and expend funds
- o Purchase land or other property
- o Enforce the protection of tribal property, wildlife and natural resources
- o Provide assessments or license fees
- o Negotiate with Federal, State and local governments
- o Employ legal counsel
- o Prevent the sale, disposition, lease or encumbrance of tribal lands
- o Exclude persons from tribal lands
- o Promulgate and enforce ordinances governing conduct
- o Safeguard and promote the peace, safety, morals, and general welfare
- o Confer with heads of Federal agencies regarding appropriations and budgets
- o Establish a tribal court
- o Establish a housing authority
- o Create subordinate bodies
- o Negotiate and conclude contracts

* For the full text of Tribal Council powers, see Article IX of the Tribal Constitution.

IV. HOOPA SEPARATION OF POWERS.

The Hoopa Tribal Government has evolved to the point to where it functions much like other governments. However, it should be recongnized that Tribes are not bound by the separations of powers models of the Federal or State Governments. In fact, these separation of powers models are typically "foreign" concepts to Indian Tribes since most Tribal Councils have traditionally serviced in each of the legislative, executive and judical functions. It is incumbent on each Tribe to individually tailor a separations of power model to its own unique needs and requirements

and practices.

The organizational chart on page seven describes the existing structure of the Hoopa Tribal Government. In 1980, the Tribal Council took action to formally separate Executive from Legislative functions of the Tribe by enacting Ordinance No. 1-80, Establishing Duties, Responsibilities and Salary of Tribal Chairman, which, among other things, designated the Chairman as the Chief Administrator of the Tribe. Since that time, each Chairman has appointed an executive officer to oversee the day-to-day operations of the Tribal Operations. In 1995, the Council more fully defined this separation of powers in the Tribal Personnel Policies by clarifying that the Council, boards, commissions and committees function primarily in an oversight capacity that oversees management's implementation of program functions. Also in 1995, the Tribal membership directed that the Tribal Court Chief Judge is to be elected by the membership.

V. THE LEGISLATIVE, EXECUTIVE AND JUDICIAL STRUCTURE OF HOOPA TRIBAL GOVERNMENT

Each function of the Hoopa Tribal Government has its own distinct role and purpose. Along with the Tribal membership's reserved powers in the Tribal Constitution, the Hoopa Tribal Government is composed of four branches, including the Tribal Council (Legislative Branch), the Tribal Chairmen (Executive/Administrative Branch), the Tribal Court (Judicial Branch) and Tribal Election Board (established pursuant to the Tribal Constitution). The following is a brief of how the Tribal membership participates in the governmental process as well as a description of each branch of Tribal Government:

THE TRIBAL MEMBERSHIP'S ROLE:

Upon approval of the Constitution of the Hoopa Valley Tribe, the Tribal membership reserved to it certain authorities. Among these included the election of members to the Tribal Council and Election Board, as well as the right to petition to either the Council or election Board for actions that could include referendal elections, recalls of elected officials, enactment of laws, etc. In 1995, acting under the direction of the Tribal membership, the Tribal Council amended the Tribal Code to require the Tribal Court Chief Judge also be elected by the membership.

In 1990, the Tribal Council enacted the Legislative Procedures Act (LPA) of the Hoopa Valley Tribe as Title 6 of the Tribal Code. The LPA established a comprehensive and systematic process to establish, amend, or modify policies, ordinances and acts, or to take other major governmental actions by the Tribal Council. Among other things, the LPA established a meaningful process whereby the Tribal membership can participate and have input into major actions of the Tribal Government. The LPA includes provisions for

individuals may file legal actions in Tribal Court for alleged violations of its procedures.

A. THE ROLE OF THE TRIBAL COUNCIL

The application of sovereign powers is carried out through the lawmaking powers of the Tribal Council. The Council carries out the legislative function of creating and amending Tribal laws, protecting resources and rights, approving expenditures, establishing Tribal goals and policies and carrying out oversight functions regarding the administration of Tribal programs. Council-appointed boards, committees and commissions also serve in legislative capacities through powers established in their respective governing documents.

While the Council has great flexibility in setting policy, an individual Councilmember cannot exceed the authority that has been delegated to him/her by the Council or as otherwise provided by Tribal law.

B. THE ROLE OF THE TRIBAL CHAIRMAN

In accordance with Tribal Ordinance No. 1-80, The Tribal Chairman is responsible for carrying out the executive/administrative functions of Tribal Government. This includes implementing the Council's laws, budgets, goals and policies, etc. All managers and employees are included in the executive/administrative functions of the Tribal Government and report to the Chairman and/or executive officer.

The executive functions are those activities necessary for or relating to execution of carrying into effect legislative acts of the Council. Executive functions also include overseeing the conduct of Tribal managers and employees in carrying out Tribal affairs and directing Tribal operations in their pursuit of implementation of Tribal enactments.

The Tribal Chairman may issue "Executive Orders" which are internal policies of the Executive branch needed to carry into effect the laws, goals and policies of the Tribal Council. Except where contrary to a law enacted by the Tribal Council, an Executive Order has the force and effect of an enactment of the Tribal Council, however, an executive order may be overruled by a majority vote of the Tribal Council.

C. THE ROLE OF THE TRIBAL COURT

The Tribal Court interprets and applies the laws. The Hoopa Tribal Court was authorized by referendum vote of the membership in 1983 and implemented under the authority of the Tribal Code that was enacted by the Tribal Council in 1986. The Tribal Chief Judge of the Court is elected by the Tribal membership. By agreement under

the Tribal separation of powers doctrine, the administrative functions of the Tribal Court are exclusively the responsibility of the Tribal Chief Judge, the only exceptions being the application of Tribal Personnel Policies and Tribal appropriations process for the Court's operating budget. The Tribal code contains a requirement that an annual Court evaluations will ber conducted to monitor the Court's activities.

D. THE ROLE OF THE TRIBAL ELECTION BOARD

The Tribal Election Board functions was established under the Hoopa Tribal Consitution as an atonomous body. The Election Board functions as both a legislative and excutive body. Election Office staff are hired by and report directly to the Election Board. The Tribal Council appropriates operating funds for the election process during the annual Tribal budget procedures.

VI. THE HOOPA LEGISLATIVE PROCESS

A. Regular and Special Meetings

Regular meetings of the Tribal Council are held on the first and third Thursdays of each month, as required by the Tribal Constitution. Special meetings of the Tribal Council are called by the Tribal Chairman or upon receipt of a petition signed by at least five members of the Council. Both regular and special meetings require that agendas be posted before each meeting is called to order.

B. Roberts Rule of Order

The Legislative Procedures Act, Title 6 of the Tribal Code, requires that meetings of the Council and its boards and committees be conducted in accordance with Roberts Rules of Order.

C. Special Consent Procedures

To conduct official business in time when the Council is not in session, the Tribal Council established a "Special Consent" procedure. Special Consents must be authorized by either the Chairman or Vice Chairman. To obtain approval of a Special Consent item, an authorized Tribal official must make a legitimate effort to contact each member of the Tribal Council for an affirmative, negative or abstention vote on the matter. Each Council member vote is recorded on a Special Consent form. A matter is approved if four or more members of the Council approve the Special Consent matter.

D. Council Consent Calendar

The Consent Calendar is part of the official order of business on the Council's meeting agenda. A request may be submitted to the Tribal Executive Secretary that an item be placed on the Consent

Calendar for prompt Council action. Consent Calendar items are placed on the agenda for early action with all items under the Consent Calendar being approved by a single vote of the Council. Any member of the Council may remove an item from the Consent Calendar to be placed on the formal agenda by request.

VII. TRIBAL COUNCIL LIAISON POLICY

A. Appointment of Council Liaisons

The Tribal Council maintains a Council Liaisons structure whereby individual members of the Council are assigned specific areas of responsibility. Those areas include:

1. Legal and Legislative Affairs
2. Appropriations
3. Natural Resources - Water Resources
4. Natural Resources - Land Resources
5. Health and Social Services
6. Education and Cultural Affairs
7. Economic and Community Development

B. Responsibility of Council Liaisons

It is the responsibility of each Council liaison to maintain open channels of communication between programs operating within the liaison area assigned and to report on program matters to the Tribal Council.

C. Authority of Individual Non-Liaison Council Members

The Liaison Policy does not limit an individual member of the Tribal Council from discussing matters with any Tribal program, manager and employees which are important to the Council or that member. Any member of the Tribal Council may attend any Tribal program meeting, including executive sessions.

D. Discussions Between Liaison and Non-Liaison Council Members

If a member of the Council is interested in a matter that is within another Council liaison's area of responsibility, the Council members should discuss any areas of interest with the liaison. However, any member of the Council may address issues and concerns directly to the full Council during a meeting.

VIII. AD HOC BOARDS/COMMITTEES/COMMISSIONS

From time to time, Ad Hoc committees may be appointed to assist in carrying out Tribal Government functions. Standing committees, boards and commissions are typically appointed by the Tribal

Council. Special purpose committees and workgroups are typically appointed by the Tribal Chairman. Each committee is governed by rules and guidelines established for that committee.

Each committee, board, commission and workgroup should have specific instructions and duties, preferably in written form. In addition, the activities of the group should be periodically reviewed to ensure that they are performing the expected task(s). The following are some guidelines for committee evaluations:

- a. What was the basis for its existence?
- b. When was the committee formed and to whom does it report?
- c. What are the stated goals, objectives, and functions of the committee? Are they still valid? Are the stated functions still being carried out by the committee?
- d. What had been the meeting record? How often do they meet? What has been the attendance?
- e. What opportunities are there for action by the committee - frequent, infrequent, or not at all?
- f. Do committee members understand the committee's operating guidelines and will a facilitator assist with accomplishing their task(s)?
- g. Is there duplication or overlap with another committee? Is a consolidation possible?
- h. Does the committee provide an opportunity for meaningful input from tribal members and others effected by their work?
- i. Do the committee members feel that their efforts have resulted in better tribal services?
- j. Has a staff person been assigned the responsibilities for coordinating the activities of the committee?

IX. HOW TO EFFECT CHANGE IN THE HOOPA TRIBAL GOVERNMENT.

Each Councilmember has his/her visions, priorities, goals, concerns and issues. One of the primary questions that a new or reelected Councilmember faces is "How can I make my priorities become reality?"

Tribal Government is most effective and efficient when the Council, Administration and Court work together with the same goals. Obviously, conflicts between branches of Government will naturally occur. However, conflicts should not be allowed to become

conflicts between the branches of Tribal Government since it rarely produces beneficial results. By far, the most successful method for implementing changes or starting new projects is to have the Council, programs and Tribal Court familiar with the goals and implementation plans.

It is also critically important that a Councilmember understand what "windows of opportunity" that exist within our Tribal Government that can maximize their abilities to effect change. One of the most important is the period each year between the months beginning in October through March. During this period that Council has the most control over the greatest amount of funding and can provide more effective leadership and vision that in any other period throughout the year. The following chart shows the availability of funds and related resources that effect the ability to change how the Hoopa Government functions:

(note - include chart on effecting change)

X. TRIBAL PLANNING, GOAL SETTING AND PRIORITY SELECTION PROCESS

A. THE PLANNING PROCESS

Fulfilling the Council's legislative and oversight functions sometimes become very difficult to manage. For the most part, spending more time on oversight functions is the easiest thing to do since it typically is based on activities either being conducted or those already finished. Oversight functions alone will generally perpetuate crisis management and reactionary approaches to running Tribal Government. Obviously, it is extremely difficult to "lead from behind".

A good planning process can result in both enhancing the Tribe's ability to exercise sovereign powers and enhancing the Tribe's abilities to react to unexpected crisis issues. A good formula upon which to design a planning process is:

Vision/Mission + Goals + Communication +
Evaluation/Feedback = SUCCESS

"Vision" and "mission" describe the direction and priorities for the Tribe and provides the "fuel" with which the vision and mission will be brought to reality. The vision for the Tribe must be based on a long-term perspective of where the Tribe intends to be at a certain point in the future.

"Goals" are the actual targets that measure the progress and set the course of direction for accomplishing the vision and mission. Goals must be realistic, understandable and measurable.

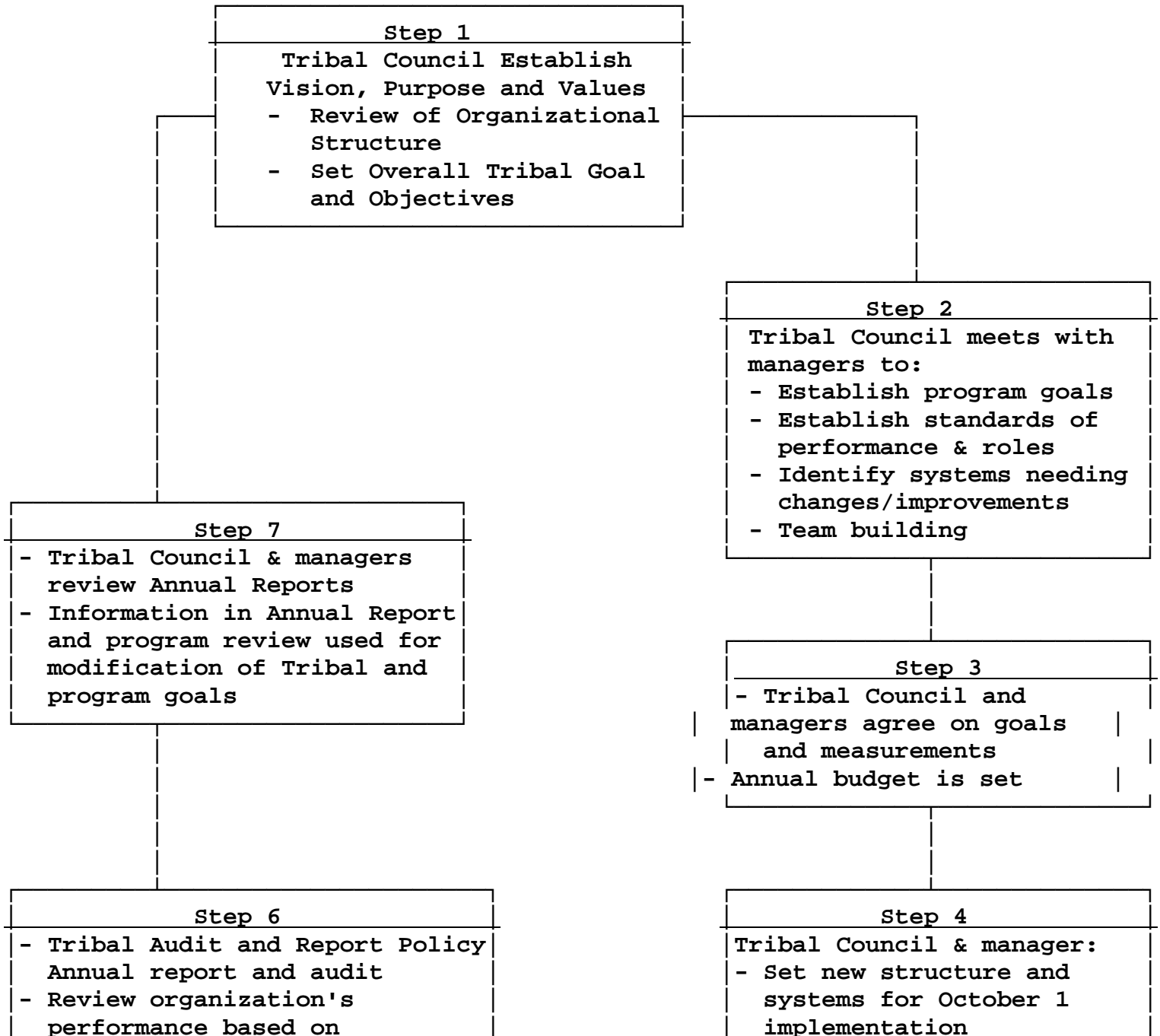
"Communication" is the result of a clearly defined process that describes and explains the vision, mission and goals to the

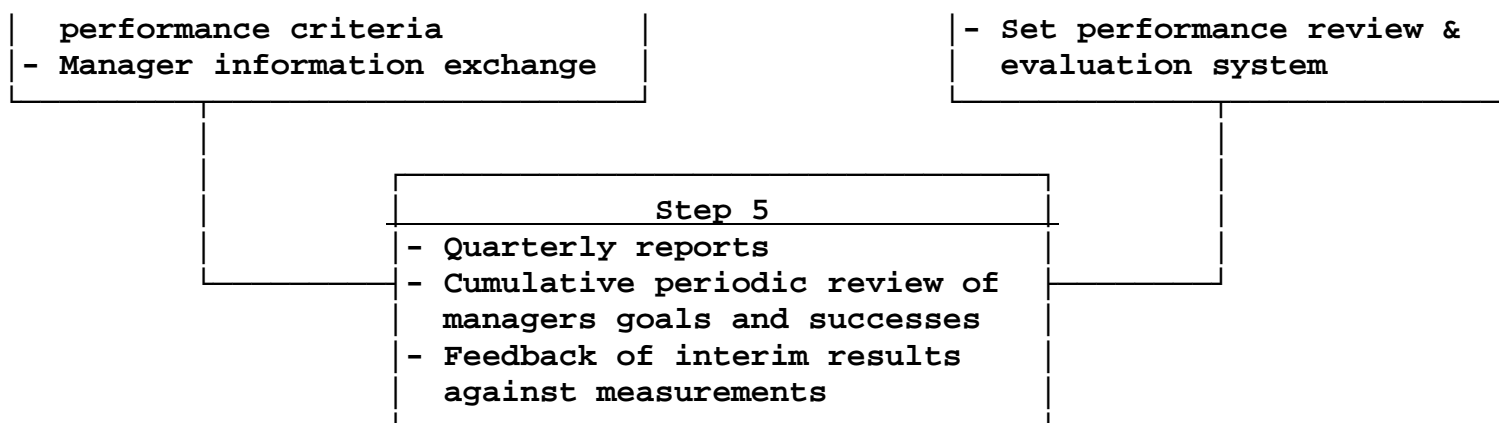
Council, managers, employees, Tribal membership, community and outside interests.

"Evaluation" and "feedback" are establish method for determining what progress is being made toward accomplishing the goals, mission and vision. In multi-level organizations, communication, evaluation and feedback are critical to the Tribal Government accomplishing its mission. Evaluations and feedback provide necessary information to recognize progress as well as for identifying weak areas that need to be address in order for the Tribe to accomplish its mission.

Therefore, formal adoption of an alternative form of planning, decision making and problem solving typically is a great benefit to Tribal bureaucracies. A distinct advantage that is gained from having a an alternative planning process for Tribal Governments is that a great wealth of wisdom, trial and error, and problem solving has evolved from these processes. The Tribal Council should formally adopt a specific process and communicate that process to your managers and employees and the Tribal membership so that they know how they can formally participate in the decisions and operations of their Tribal Government.

OVERVIEW OF GOAL SETTING PROCESS





B. ORIENTATION/PLANNING SESSIONS

A. Annual Council Orientation Session.

In July of each year, the Tribal Council conducts a Council orientation session. This session is to formally welcome recently elected Councilmembers to the Tribal Council, inform them of their functions as a member of the Tribal Council, and to discuss amongst the full Council past priorities and new priorities to be added. This orientation session is a prelude to the Council's Annual Planning Sessions.

B. Annual Planning Sessions.

Beginning in October of each year, the Tribal Council plan and conducts their annual planning sessions. These sessions are designed to receive input from each member of the Council and to develop a collective long and short term direction for the future of the Tribe. The Planning Sessions should accomplish:

1. A clearly defined long-term mission and shared values for the Tribe that will guide its long and short term goals;
2. A set of long-term goals and priorities that the Council wishes to accomplish in future years;
3. A set of short-term goals and priorities that the Council wishes to accomplish in the next year;
4. Review of the organizational structure of the Hoopa Tribal Government to determine if changes are needed to accomplish the Council's long and short term goals.
5. Decisions on long and short term financial needs and commitments that will be needed to accomplish the Council's goals;
6. Other issues that the Council may be interested; and
7. A designated individual shall be assigned to report on the actions taken during the planning sessions on such thnigs as, the Tribal mission, shared values, long and short term goals, structure changes and needs, budget and

financial needs and expectations, other issues that may be of interest to Tribal members, managers and employees and the Hoopa community.

C. IMPLEMENTING GOALS AND PRIORITIES

Goals or plans do not implement themselves nor do identified needs magically appear. Again, the Council is faced with the same question, "How can the Council make our priorities become reality?"

- o Tre Tribal Mission Statement should include broad statements of direction and purpose - where the tribe should be going. It should focus on the desired character of the tribe, the kinds and quality of tribal services to be offered, financing philosophies, and community development characteristics regarding land use, economic, social, and cultural considerations.
- o Goals are more specific than the Mission Statement and are statements of desirable accomplishment within a specific time frame. The Tribal goals also provide a method for determining the priorities to which Tribal budgets can be applied. GOAL setting approach can provide a framework for setting policy as well as means for measuring progress in meeting policy objectives.

XI. THE ANNUAL BUDGET

Whether a Tribal Council or administer consciously sets an official policy for the Tribe or not, a Tribal policy is set every year. That policy is the Budget. The Budget describes where the Tribe gets its money, how the money is authorized to be spent, and what the Tribe will get in return. No matter how small the amount of money or number of programs involved, a formal budget process is the surest method to keep track of your money and aid in the evaluation of results.

Because there are so many issues, programs, priorities, etc. in operating Tribal Government, the budget process is probably the single common link between each of the Tribe's efforts. The Budget process should be considered a "planning process" that will result in establishing "standards" for evaluating performance throughout the year.

The budget process, while lengthy, must be limited to a set timeframe each year. Obviously, if you only do budget development for the entire year, who will have time to "implement" the budget and achieve the success that was expected when the money was appropriated?

In addition, the budgets that are developed today must be harmonious with the visions, goals and expectation of the Tribe in the future. Long-term success is dependent on developing a long-term budgeting process. Simply put, budgets are "investments" of money in order to achieve some established and measurable product.

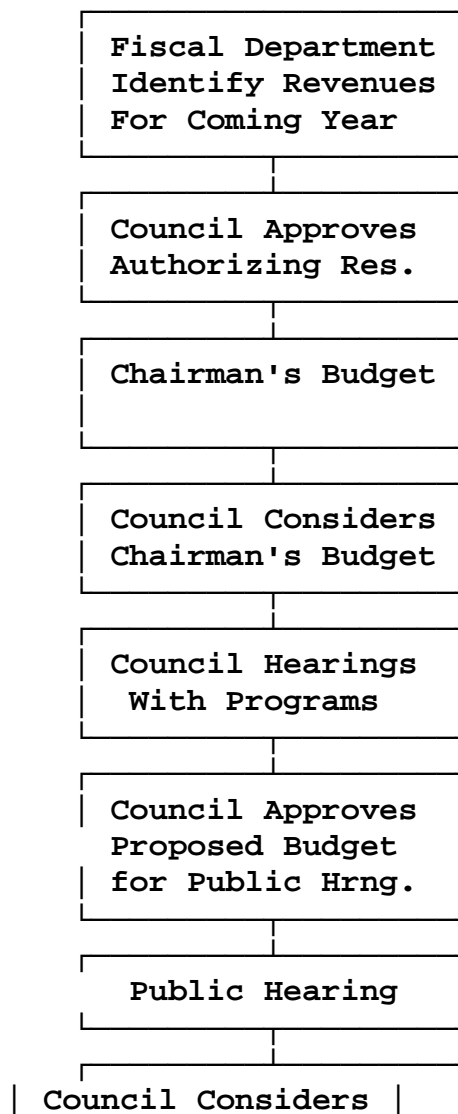
Policy makers should be ever aware that bureaucracies live and strive

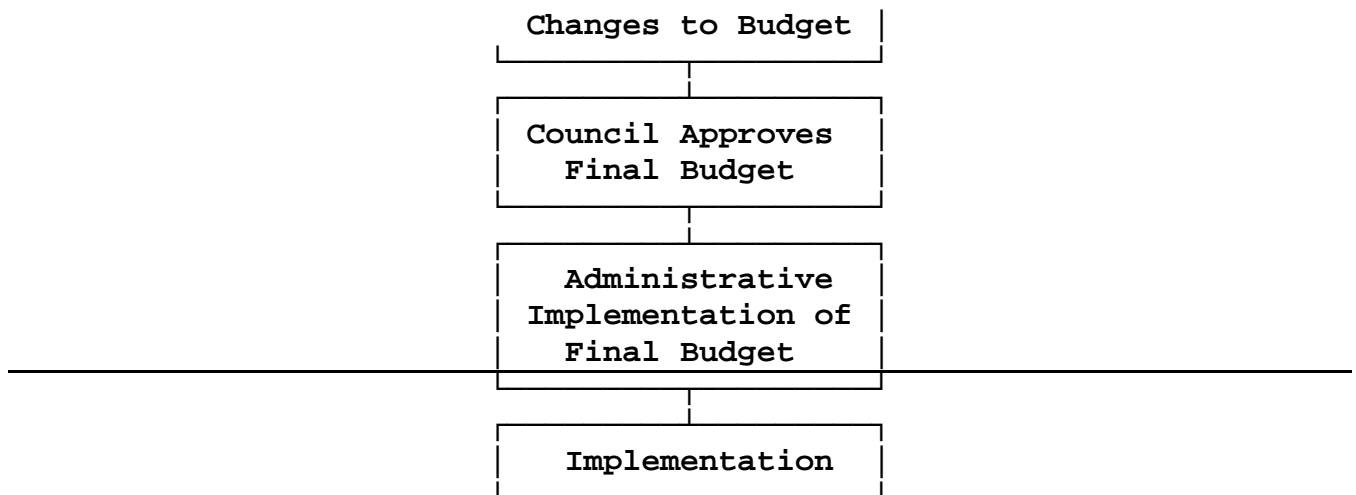
for spending money. Obviously, everyone needs more money to spend - including bureaucracies. The question is - what product are we getting for the "investments" that we are making through the budget process.

The budget process can be used as a key element - in fact, THE key element - in setting tribal policy. Who decides how much of the budget goes to the various programs? Who do the tribal members blame? That's right - YOU!

Making a budget properly isn't a four or five month project. It's a year-round process. The budget process can be broken down into four phases for use as a policy tool. Remember though, these are very general; many steps and activities can be included in each phase.

TRIBAL BUDGET DEVELOPMENT PROCESS





TRIBAL RREPORTING PROCEDURES:

The Tribal Government operates under the Tribal Audit and Report Policy (Policy). The Policy is designed to both reduce the number and frequency of reporting by Tribal programs as well as to improve the information contained in reports that are required.